

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local Procurement Obligations	Rulemaking 11-10-023 (Filed October 20, 2011)
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DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 13-06-024.

Claimant: The Utility Reform Network (TURN)	For contribution to Decision 13-06-024
Claimed: \$76,632.61	Awarded: \$ 67,670.11 (reduced 11.7%)
Assigned Commissioner: Michel Peter Florio	Assigned ALJ: David M. Gamson

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	Decision (D.)13-06-024 adopted an interim “flexible capacity” framework as an additional component of Resource Adequacy (“RA”) requirements, but found that there is no need to adopt a flexible capacity requirement for the 2014 RA year. In addition, the decision established local capacity procurement obligations for 2014 applicable to Commission-jurisdictional electric load serving entities.
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B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	N/A	March 20, 2013
2. Other Specified Date for NOI:	Nov. 28, 2011	Verified
3. Date NOI Filed:	May 11, 2012 (see comment below)	Verified
4. Was the NOI timely filed?		Yes

Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.11-11-008	A.10-07-007 and A.11-09-016
6. Date of ALJ ruling:	January 3, 2012	February 21, 2013
7. Based on another CPUC determination (specify):	n/a	N/A
8. Has the Claimant demonstrated customer or customer-related status?	Yes	
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.11-11-008	A.10-07-007 and A.11-09-016
10. Date of ALJ ruling:	January 3, 2012	February 21, 2013
11. Based on another CPUC determination (specify):	n/a	N/A
12. Has the Claimant demonstrated significant financial hardship?	Yes	
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.13-06-024	Verified
14. Date of Issuance of Final Order or Decision:	July 3, 2013	Verified
15. File date of compensation request:	September 3, 2013	Verified
16. Was the request for compensation timely?	Yes	

C. Additional Comments on Part I:

#	Claimant	Comment
3	X	On August 31, 2012, ALJ Gamson issued a ruling accepting TURN’s late-filed NOI and determining that TURN’s eligibility for intervenor compensation would start on May 11, 2012, the date on which TURN filed its NOI. All of the hours claimed in this request were incurred after May 11, 2012.
15	X	The 60 th day after the issuance of D.13-06-024 fell on Sunday, September 1, 2013 and the following day was the Labor Day holiday when the Commission was closed. Pursuant to Rule 1.15 of the Commission’s Rules of Practice and Procedure, this Request for Compensation is timely filed on the first business day thereafter.

PART II: SUBSTANTIAL CONTRIBUTION

- A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).**

Contribution	Specific References to Claimant's Presentations and to Decision	Showing Accepted by CPUC
1. TURN contributed to the Commission's determination that a flexible capacity requirement should not be adopted for the 2014 RA year because of the lack of a demonstrated need.	<ul style="list-style-type: none"> TURN Dec. 26, 2012 Comments, p. 5. TURN April 5, 2013 Comments, pp. 5-7. TURN April 15, 2013 Reply Comments at 2-4. D.13-06-024 at 38, 66 (Conclusion of Law (COL) 6) 	Yes, but duplication
2. TURN contributed to the Commission's determination that load serving entities (LSEs) should be required to amend their RA filings to include information about their effective flexible capacity in their current RA portfolio.	<ul style="list-style-type: none"> TURN April 5, 2013 Comments at 2, 9-10. D.13-06-024, pp. 56 (citing TURN) and 70 (Ordering Paragraph (OP) 6). 	Yes
3. TURN contributed to the Commission's determination that there are unresolved issues relating to the ISO's calculation of flexible capacity needs.	<ul style="list-style-type: none"> TURN April 5, 2013 Comments at 6-9. TURN June 17, 2013 Comments on the Proposed Decision (PD), at 4. D.13-06-024 at 39 (citing TURN), 55-56, 57 (item 5), 64 (Finding of Fact (FOF) 20). 	Yes
4. TURN contributed to the Commission's determination that one of the details that still needs to be determined is to define the error term in the methodology used to calculate the flexible capacity need.	<ul style="list-style-type: none"> TURN Dec. 26, 2012 Comments, at 8. TURN June 17, 2013 Comments on the Proposed Decision (PD), at 9. D.13-06-024 at 57, 64 (Finding of Fact (FOF) 20). 	Yes
5. TURN contributed to the Commission's determination that, although the Sierra Club/TURN motion for evidentiary hearings should be denied, the Commission would not make any	<ul style="list-style-type: none"> Sierra Club/TURN Amended Request for Evidentiary Hearings, March 28, 2013 at 4-5. D.13-06-024 at 34, 62 (FOF 7). 	No, the Commission chose not to pursue evidentiary hearings because the issues raised were not material or in dispute.

Findings of Fact regarding any of the facts addressed in that motion.		
6. TURN contributed to the Commission's determination that the proceeding schedule should be modified to allow a second workshop on flexible capacity issues.	<ul style="list-style-type: none"> TURN Dec. 26, 2012 Comments, at 1-2. February 11, 2013 e-mail from T. Long to ALJ Gamson (and the service list) March 11, 2013 ALJ Ruling Resetting Schedule for Comments on Phase 2 Resource Adequacy Issues and Scheduling a Prehearing Conference at 2. 	Yes
7. The final decision adopts many revisions to Findings of Facts and Conclusions of Law recommended by TURN	<ul style="list-style-type: none"> TURN June 17, 2013 Comments on the Proposed Decision (PD), Appendix A. D.13-06-024 at 63-65 (FOFs 11, 16, 17, 20 and COL 5). 	Yes, but half of the revisions were not accepted.

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA)¹ a party to the proceeding?	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: TURN's position that the Commission should not adopt a flexible capacity requirement for the 2014 RA year was shared by many parties. (See D.13-06-024 at 20-29).		Verified
d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: TURN and DRA represented similar interests in this proceeding. (While both represented ratepayer interests, TURN alone represented the interests of residential and small commercial customers.) TURN accordingly took steps to coordinate with DRA, as appropriate. On the critical issue of whether the ISO had demonstrated a need for a flexible capacity requirement in the 2014 RA year, TURN undertook its own assessment of the ISO data, which TURN submits		

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

<p>benefitted the record by providing two independent and expert reviews of behalf of ratepayer interests. TURN and DRA emphasized different issues in their participation. For example, more than DRA, TURN emphasized the importance of a complete and timely record, as evidenced by the Joint Sierra Club/TURN motion for evidentiary hearings.</p> <p>Similarly, the fact that numerous parties shared TURN's perspective that a flexible capacity requirement was not justified for 2014 did not result in TURN's undue duplication with those parties. A rulemaking proceeding of this nature attracts a range of parties, and some degree of overlap in positions is inevitable. In the specific case of the flexible capacity requirement here, the range of interests represented by parties with positions overlapping with TURN's varied widely, from generators to marketers to environmental interests to consumer representatives. TURN's analysis was complementary to the offerings of others, yielding a full record upon which the Commission could base its determination that action was premature.</p> <p>In addition, recognizing that several parties (e.g., Sierra Club, Vote Solar, CEERT, CalWEA) were likely to advocate for increased opportunities for preferred resources in the flexible capacity requirement, TURN avoided duplication of these parties' advocacy. TURN did join with the Sierra Club to request evidentiary hearings, but our partnership on those pleadings served to avoid duplication of effort.</p> <p>For all of these reasons, TURN submits that the Commission should find no undue duplication between TURN's participation and that of DRA or other parties.</p>	<p>Verified</p>
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§§ 1801 & 1806):

<p>a. Intervenor's Claim of Cost Reasonableness:</p> <p>TURN's advocacy reflected in D.13-06-024 addressed policy matters rather than specific rates or disputes over particular dollar amounts. As a result, TURN cannot easily identify precise monetary benefits to ratepayers from our work related to D.13-06-024, given the nature of the issues presented. While it is difficult to place a dollar value on Resource Adequacy (RA) issues, TURN submits that our participation should result in reduced customer costs by deferring the adoption of a potentially costly flexible capacity requirement and thereby protecting ratepayers from assuming unnecessary costs. In this case as in prior RA proceedings, these benefits far exceed the modest cost of TURN's participation. (<i>See, i.e.</i> D.12-06-014, issued in the last RA proceeding, R.09-10-032, as well as D.09-11-029, issued in R.08-01-025, and D.07-03-011, issued in R.05-12-013 (two earlier RA proceedings), which found that the benefits from TURN's participation on RA policy issues outweighed the costs of TURN's participation.)</p>	<p>CPUC Verified</p> <hr/> <p>Verified</p>
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<p>For all of these reasons, the Commission should find that TURN's efforts here have been productive.</p>	
<p>b. Reasonableness of Hours Claimed.</p> <p>This Request for Compensation includes approximately 230 total hours for TURN's attorneys and consultants, or the equivalent of less than six weeks of full-time work by a single person (40 hours/week). TURN submits that this is a reasonable amount of time, given that Phase 2, resulting in D.13-06-024, spanned seven months, required careful analysis of two highly detailed flexible capacity proposals by the Joint Parties and by Energy Division, required careful scrutiny of the ISO data regarding flexible capacity need, involved several days of workshops and ISO stakeholder meetings, and involved six pleadings filed by TURN (excluding compensation-related pleadings).</p> <p>TURN was efficient in staffing this proceeding and pursuing our objectives. As reflected in the attached timesheets, Hayley Goodson was TURN's attorney at the start of Phase 2 of this proceeding. In late January and early February of 2013, Ms. Goodson's other responsibilities, particularly her role as lead attorney in A.12-11-009 (PG&E's 2014 General Rate Case), required Thomas Long to take over the attorney responsibilities in this case. Upon the transfer of the case, Mr. Long assumed full attorney duties immediately so that he and Ms. Goodson did not overlap in the performance of any tasks. Throughout Phase 2, Ms. Goodson and Mr. Long were assisted by outside consultant Kevin Woodruff, of Woodruff Expert Services, the same expert TURN has extensively relied on in previous Resource Adequacy rulemaking proceedings. Once again, Mr. Long and Ms. Goodson relied heavily on Mr. Woodruff, resulting in Mr. Woodruff's incurring more than two-thirds of TURN's total hours (excluding intervenor compensation-related time). This reliance on Mr. Woodruff's extensive expertise significantly reduced TURN's attorney hours and thereby resulted in efficiencies in TURN's participation in this proceeding.</p> <p>TURN claims 3.75 hours (less than 2% of TURN's total substantive hours, mostly incurred by Kevin Woodruff) for its work analyzing the ISO's Local Capacity Requirements (LCR) study. As D.13-06-024 reflects, LCR was a key issue in Phase 2, the first issue identified in the Phase 2 Scoping Memo. The time incurred related to the LCR issue was devoted to understanding and analyzing the ISO study and its results. In contrast to prior years, upon concluding its analysis, TURN did not have concerns about the study methodology or its results and therefore did not see a reason to file any comments with the CPUC. Nevertheless, the fact that TURN undertook to scrutinize the CAISO study and found no problems</p>	<p>Verified</p>

<p>worth commenting upon could give the Commission confidence that the ISO study and results were reliable. In this respect, TURN’s analysis made a substantial contribution to the final decision adopting the ISO study results, and TURN did so efficiently by incurring a small number of hours and avoiding the filing of an unnecessary pleading with the Commission. Accordingly, TURN submits that these hours are reasonable and should be compensated.</p> <p>TURN submits that all of the hours claimed in this request were reasonably necessary to the achievement of TURN’s substantial contributions, and no unnecessary duplication of effort is reflected in the attached timesheets.</p> <p>TURN’s request also includes 9.75 hours devoted to the preparation of this request for compensation by Mr. Long. This is a reasonable figure consistent with the scale of the proceeding and TURN’s level of involvement in it. Mr. Long has prepared this request because of his extensive involvement in all but the preliminary stages of Phase 2 of this proceeding and his detailed knowledge of TURN’s work effort.</p>																
<p>c. Allocation of Hours by Issue</p> <p>TURN has allocated its daily time entries by activity codes to better reflect the nature of the work reflected in each entry. TURN has used the following activity codes:</p> <table><tr><th>Code</th><th>Description</th><th>Allocation of Time</th></tr><tr><td>Flex Cap (or FC)</td><td>Work specifically related to Flexible Capacity requirements (<i>Phase 2 Scoping Memo</i> Issue 4)</td><td>90.9%</td></tr><tr><td>LCR</td><td>Work specifically related to Local Capacity Requirements for 2014 (<i>Phase 2 Scoping Memo</i> Issue 1)</td><td>1.6%</td></tr><tr><td>GP</td><td>Work related to general participation in this proceeding, such as reviewing the scoping memo and other rulings, execution of nondisclosure agreements with utilities, and other procedural matters</td><td>3.4%</td></tr><tr><td>Comp</td><td>Work related to intervenor compensation.</td><td>4.1%</td></tr></table> <p>If the Commission believes that a different approach to issue-specific allocation is warranted here, TURN requests the opportunity to supplement this section of the request.</p>	Code	Description	Allocation of Time	Flex Cap (or FC)	Work specifically related to Flexible Capacity requirements (<i>Phase 2 Scoping Memo</i> Issue 4)	90.9%	LCR	Work specifically related to Local Capacity Requirements for 2014 (<i>Phase 2 Scoping Memo</i> Issue 1)	1.6%	GP	Work related to general participation in this proceeding, such as reviewing the scoping memo and other rulings, execution of nondisclosure agreements with utilities, and other procedural matters	3.4%	Comp	Work related to intervenor compensation.	4.1%	<p>Verified</p>
Code	Description	Allocation of Time														
Flex Cap (or FC)	Work specifically related to Flexible Capacity requirements (<i>Phase 2 Scoping Memo</i> Issue 4)	90.9%														
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GP	Work related to general participation in this proceeding, such as reviewing the scoping memo and other rulings, execution of nondisclosure agreements with utilities, and other procedural matters	3.4%														
Comp	Work related to intervenor compensation.	4.1%														

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Hayley Goodson	2012	4.5	\$325	D.13-08-022	1462.50	4.5	\$325.00 ²	\$1,462.50
H. Goodson	2013	7.25	\$340	Pending in A.11-06-007	2,465.00	7.25	\$340.00 ³	\$2,465.00
Thomas Long	2013	58.25	\$555	Pending in A.10-02-005 et al.	32,328.75	42.75 ^[A]	\$555.00 ⁴	\$23,726.25
Kevin Woodruff	2012	30.50	\$240	D.12-11-050	7,320.00	30.50	\$240.00 ⁵	\$7,320.00
K. Woodruff	2013	126.25	\$240	D.12-11-050	30,300.00	124.75 ^[A]	\$240.00	\$29,940.00
Subtotal: \$ 73,876.25						Subtotal: \$ 64,913.75		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Thomas Long	2013	9.75	277.50	½ of 2013	2,705.63	9.75	\$277.50	\$2705.63
Subtotal: \$ 2,705.63						Subtotal: \$2,705.63		
COSTS								
#	Item	Detail			Amount	Amount		
	Phone	Telephone expense related to R.11-10-023, Phase 2			\$12.15	\$12.15		
	Photocopying	Expenses associated with copying pleadings related to R.11-10-023, Phase 2			\$24.90	\$24.90		
	Postage	Expense associated with mailing pleadings related to R.11-10-023, Phase 2			\$13.68	\$13.68		
		Subtotal			\$50.73	Subtotal: \$50.73		
TOTAL REQUEST: \$ 76,632.61						TOTAL AWARD: \$67,670.11		
*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision								

² Approved in D. 14-08-026.

³ Application of 2.0% Cost-of-Living Adjustment, Resolution ALJ-287 and second 5% step increase.

⁴ Approved in D. 14-08-052.

⁵ Approved in D. 14-09-012.

making the award.

****Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate.**

Attorney	Date Admitted to CA BAR⁶	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Thomas Long	December 11, 1986	124776	No
Hayley Goodson	December 5, 2003	228535	No

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Daily Time Records for Attorneys and Experts with Coded Time Entries
3	Cost Detail
4	Allocation of Hours
Comment 1	<p>Hourly Rates for TURN Attorneys:</p> <p>TURN seeks hourly rates for its staff attorneys at levels that the Commission has previously adopted for each individual's work in a given year, or at increased levels for 2013 consistent with Resolution ALJ-287. The following describes the basis for the requested rates that have not been previously awarded as of the date of this Request for Compensation.</p> <p><u>Hayley Goodson</u>: For Ms. Goodson's work in 2013, TURN seeks an hourly rate of \$340, an increase of 7.0% from the approved rate for 2012. The 2013 increase is the general 2.0% increase provided for in Res. ALJ-287, plus the second of two 5% step increases available with her move in 2010 to the 8-12 years experience tier. TURN has previously requested this 2013 rate for Ms. Goodson in A.11-06-007.</p> <p><u>Thomas Long</u>: For Mr. Long's work in 2013, TURN seeks an hourly rate of \$555. In D.13-05-007, the Commission approved an hourly rate of \$520 for Mr. Long's work in 2011 and \$530 for his work in 2012, based on the 2.2% cost of living adjustment in Resolution ALJ-281. Mr. Long's requested rate for 2013 is an increase of 7.0% from the requested rate for 2012. The 2013 increase is based on the general 2.0% increase provided for in Res. ALJ-287, plus the first of two 5% step increases available in the 13+ years experience tier. TURN has previously requested this 2013 rate for Mr. Long in A.10-02-005 et al.</p>

⁶ This information may be obtained at: <http://www.calbar.ca.gov/>.

D. CPUC Disallowances and Adjustments:

#	Reason
A	As explained in part two, TURN did not substantially contribute on certain issues. Itemized hours were reduced by 1.5 for Woodruff in 2013 and by 10.5 for Long with regards to work done preparing the motion for evidentiary hearings. Hours attributed to work done by Long on comments to the proposed decision were also reduced by 50%, from 10 to 5.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?	Yes

FINDINGS OF FACT

1. The Utility Reform Network has made a substantial contribution to Decision (D.) 13-06-024.
2. The requested hourly rates for The Utility Reform Network's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$67,670.11.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. The Utility Reform Network is awarded \$67,670.11.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas and Electric Company, and Southern California Edison Company shall pay The Utility Reform Network their respective shares of the

award, based on their California-jurisdictional electric revenues for the 2013 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include interest at the rate earned on prime, three-month, non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning November 17, 2013, the 75th day after the filing of The Utility Reform Network's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1306024		
Proceeding(s):	R1110023		
Author:	ALJ Gamson		
Payer(s):	Pacific Gas and Electric Company, San Diego Gas and Electric Company, and Southern California Edison Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	04/12/13	\$76,632.61	\$67,670.11	N/A	N/A

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Hayley	Goodson	Attorney	The Utility Reform Network	\$325.00	2012	\$325.00
Hayley	Goodson	Attorney	The Utility Reform Network	\$340.00	2013	\$340.00
Thomas	Long	Attorney	The Utility Reform Network	\$555.00	2013	\$555.00
Kevin	Woodruff	Expert	The Utility Reform Network	\$240.00	2012	\$240.00
Kevin	Woodruff	Expert	The Utility Reform Network	\$240.00	2013	\$240.00

(End of Appendix)